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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,985	09/22/2006	Ralph Brookfield	2365-124	5621
6449 7590 07/13/2009 ROTHWELL, FIGG, ERNST & MANBECK, P.C. 1425 K STREET, N.W. SUITE 800 WASHINGTON, DC 20005				
EXAMINER HICKS, CHARLES N				
ART UNIT 2424		PAPER NUMBER		
NOTIFICATION DATE 07/13/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

### Office Action Summary

**Application No.**

10/542,985

**Applicant(s)**

BROOKFIELD ET AL.

**Examiner**

CHARLES N. HICKS

**Art Unit**

2424

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-15, 24-30, 33-37 and 39-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-15, 24-30, 33-37 and 39-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 3/13/2009 have been fully considered but they are not persuasive. In regards to applicant argument that Lemmons fails to disclose broadcasting over the television network a separate stream of interactive content data for storage at the receiver is understood, but the examiner disagrees. The targeted information may be interactive and at times is stored in the memory of the set-top box as it is downloaded or delivered to the set-top box in the VBI for later display. The broadcast video stream is transmitted along with triggers to the set-top box and the triggers determine the utilization stored targeted information (**pg. 3, paragraphs 29-31**). The video stream and targeted data can be combined and presented to the display in a interactive overlay format (**pg. 3-4, paragraphs 35-37**). According to applicant's spec data is received and recognized, which is what Lemmons does.
2. In regards to the claim objections, the codes in the audiovisual data stream trigger the display of the stored interactive data on the display along with the audiovisual data. "In response to the receipt of which" has the same meaning as trigger or causes. With that understanding the examiner hence removes the objection.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 9-13, 24-28, 33-35, and 39-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Lemmons (US 2004/0210942 A1), hereinafter referred to as Lemmons.
5. Regarding claims 9 and 24, Lemmons discloses a method of broadcasting a television program including interactive content, the method comprising broadcasting over a television network a stream of audiovisual data for display by a receiver and broadcasting over the television network a separate stream of interactive content data for storage at the receiver, wherein the stream of audiovisual data includes codes in response to the receipt of which the receiver is intended to include the stored interactive content data in the display of the audiovisual data (**fig. 1, pg. 2, paragraphs 23-24**).
6. Regarding claims 10 and 25, Lemmons discloses a method of receiving a television program including interactive content, the method comprising receiving a stream of audiovisual data for display and receiving a separate stream of interactive content data, storing the interactive content data and responding to codes in the stream of audiovisual data to include the stored interactive content data in the display of the audiovisual data (**fig. 1, pg. 2, paragraphs 23-24**).

7. Regarding claims 11, 26, 33, and 39, Lemmons discloses the method wherein the interactive content is included in the display of the audiovisual data by overlaying it on the displayed audiovisual data (**fig. 1, pg. 3-4, paragraphs 35-36**).
8. Regarding claims 12, 27, 34, and 40, Lemmon discloses the method wherein the displayed interactive content is varied in response to further codes included in the audiovisual data stream (**fig. 1-2, pg. 3, paragraphs 30-31**).
9. Regarding claims 13, 28, 35, and 41, Lemmon discloses the method wherein the codes are transmitted a Vertical Blanking Interval (VBI) of the audiovisual data stream (**fig. 1-2, pg. 3, paragraphs 29-30**).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
11. Claims 14-15, 29-30, 36-37, and 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmons.

12. Regarding claims 14, 29, 36, and 42, Lemmon fails to disclose the method wherein the codes are transmitted in a page of Teletext.TM. Official notice is taken due to the fact that to transmit codes in a page of Teletext is extremely well known in the art of video distribution systems. Therefore it would have been obvious to one of ordinary skill in use a known method of data transfer since it will provide predictable results.

13. Regarding claim 15, 30, 37, and 43, Lemmon fails to disclose the method wherein the codes are transmitted in Teletext.TM. page 7AA. Official notice is taken due to the fact that to transmit codes in Teletext is extremely well known in the art of video distribution systems. Therefore it would have been obvious to one of ordinary skill in use a known method of data transfer since it will provide predictable results.

### ***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES N. HICKS whose telephone number is (571)270-3010. The examiner can normally be reached on M-F 7:30AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/  
Supervisory Patent Examiner, Art  
Unit 2424

CNH